

## 12.705 PROPERTY CONFISCATION

### **Reference:**

Standards Manual 55.2.4, 61.2.5, 82.2.1, 84.1.1

### **Policy:**

Police personnel will exert every effort to detect, arrest, and prosecute violators. Property used in an unlawful manner can be seized and held as evidence in connection with the arrest.

Police personnel will not routinely confiscate lawfully possessed property from another person. An exception can be made if in the judgment of a supervisor confiscation is deemed necessary for the safety or welfare of the public or individuals involved. Items falling into this category are guns, knives, other dangerous weapons, explosives, poisons, etc.

### **Purpose:**

Eliminate questionable confiscation and reduce complaints of illegal search and seizure.

Establish division procedure regarding firearms coming into police possession.

### **Procedure:**

#### A. Confiscated Property:

1. Report confiscated property, except firearms, on an Incident Report (Form 301). Provide a complete account of the circumstances surrounding the confiscation.
  - a. A Property Receipt (Form 330) is to be issued to the subject the division confiscated the property from.
2. Report property of undetermined ownership coming into police possession as "Property Found" and document on a General Conditions Report (Form 317), except firearms.

#### B. Processing of Firearms:

1. Report all firearms coming into police possession on a Firearm Report (Form 313).
  - a. Fill out all blocks completely except "Barrel Length." The Court Property Unit will complete this block.

- b. List the complete number found on the frame, including prefix and suffix letters.
- c. If a firearm does not have a serial number, note this in the "Serial Number" block.
- d. For **all** felony arrests involving the confiscation of a firearm in connection with the arrest (whether or not a weapons offense has been charged):
  - 1) Print "ATTENTION RIP CASE" in bold lettering in the "Detail/Remarks" section of the Form 313.
- 2. Query all firearms coming under police control through RCIC and NCIC.
  - a. The officer having original control of the firearm will run the query.
  - b. If the firearm is stolen, the officer running the query must ensure the originating agency is notified.
  - c. The Court Property Unit will not accept firearms unless they have been queried through the computer.
- 3. Attach a Property Tag (Form 64 or Form 327), Form 330, and Form 313 to all firearms coming into police custody.
- 4. Place all firearms in a Gun Envelope.
  - a. If a firearm will not fit in a Gun Envelope, attach a Form 64 or 327, Form 330, and Form 313 to the firearm.
- 5. Place the computer printout and Form 313 inside the Gun Envelope. Ensure the following information is on the printout:
  - a. The words "To Court Property Unit"
  - b. Date and time the printout was forwarded to the Court Property Unit
  - c. The originating agency terminal identifier (example: DST1, PARK, CVCS, etc.)

6. If body fluids are on the firearm, attach all paperwork to the outside of the Gun Envelope.
  - a. Place a biohazard label on the outside of the Gun Envelope.
7. Routing of Form 313:
  - a. File the original and a copy of Form 313 at the reporting unit.
  - b. Attach two copies to the firearm.
    - 1) Court Property Unit will file one copy and forward the other copy to the Criminal Investigation Section (CIS).
8. CIS personnel check the Forms 313 each day and determine which firearms require test firing.
9. CIS will test firearms except:
  - a. If the person who was carrying the firearm is charged with Carrying a Concealed Firearm. In that case, the officer who will present the case in court will test fire the firearm at CIS.
  - b. If the firearm is felt to be unsafe. In these cases, no firing will be required.
- C. Return of Confiscated Firearm:
  1. If an officer confiscates a firearm from a citizen, the citizen can get the firearm back if there is:
    - a. A court order from a judge, or
    - b. A letter to the Police Chief from the citizen and then the Police Chief directs the firearm be returned.
  2. When a confiscated firearm is being returned to its owner, the Police Division may, before returning the firearm, require the owner prove ownership as evidence that he is entitled to possession.
    - a. An owner may demonstrate ownership or the right to the possession of a firearm through:

- 1) A bill of sale with the description, serial number, and owner's name;
- 2) A police query showing the firearm is registered to the owner;
- 3) Possession of a court order ordering the return of the firearm to the owner;
- 4) Presenting his homeowner's insurance showing the firearm is listed and reported lost or stolen from the owner; or
- 5) Being a dealer and presenting an inventory with the firearm and serial number listed and that the firearm was reported stolen or missing from the owner's business.